

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 1996-245

July 11, 2001

R. BOYD THOMPSON
Request for Commission Investigation of
Bangor Hydro-Electric Company's Power
Outages and Low Voltage for the Residents
of Newbury Neck Road and Beyond

ORDER APPROVING
SETTLEMENT AGREEMENT

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

We approve a Settlement Agreement signed by Bangor Hydro-Electric Company (BHE) and the Public Advocate (OPA) concerning service quality issues in the Newbury Neck area of Surry, Maine and close this investigation.

II. BACKGROUND

This investigation was opened in June of 1996 in response to a 10-person complaint about the quality of service provided by BHE to customers located in the Newbury Neck region of the Town of Surry. Following a public hearing in May 1997, a public meeting in Blue Hill, and several negotiation sessions, most parties to this investigation filed a proposal stipulation with the Commission. The Commission approved the Stipulation and an Addendum to the Stipulation in June 1999.

Pursuant to the Stipulation and Addendum, this docket remained open. Under the Addendum, the parties agreed that the Commission would retain an independent electrical engineer, in consultation with OPA and BHE and at the expense of BHE, to investigate the remaining service quality issues in the Newbury Neck area. The Addendum listed the tasks to be undertaken by the engineer. These included reviewing data, past and current; consulting with Commission staff, affected customers, OPA and BHE; recommending additional monitoring; and finally making a report identifying any aspect of the Company's service in Newbury Neck area that does not meet the Commission's service standards and recommending remedies. The Addendum further provided that after November 1, 1999, the OPA, BHE and customers would meet in Blue Hill or Surry to discuss issues relating to service, respond to the engineers recommendations and any alternative recommendations of the Company, and if necessary, to request the Commission to direct BHE to take corrective action.

The Commission retained POWER Engineers, Inc. in September 1999. The firm met with affected customers on November 9, 1999 to gather information. POWER Engineers produced a draft report of its findings and recommendations in February 2000.

On May 16, 2000, a meeting was held in Blue Hill to discuss the results of the draft report with the complainants. On June 15, complainants (Joseph Grimaldi, and Boyd Thompson) and Intervenor¹ Donna Robinson and the Public Advocate filed written comments on the report. On July 25, Commission Staff, the Public Advocate and BHE discussed changes and additions to the report. POWER Engineers filed its final report on August 31, 2000.

The POWER Engineers' Report concludes:

After considering all of the data, it appears that the Surry circuit reliability is consistent with normal rural utility operations and reliability. The 115kV outages should be significantly reduced with the new line. The 46kV Line 10 appears to contribute to the majority of sustained interruptions. Most outages on the 12.47kV system appear to be the result of tree contacts and the automatic circuit reclosers operate as designed and quickly interrupt the fault and reclose the line to restore service.

The Report makes five recommendations:

1. Reschedule the rebuild of the Surry – Blue Hill portion of Line 10 to get it in a separate right of way as much as possible.
2. Consider installation of a 46kV circuit recloser on Line 10 at Surry to automatically sectionalize the Blue Hill portion of the circuit for faults.
3. Make tree trimming a priority goal in this area.
4. Research right of way agreements for services to clearly identify private taps. Contact private tap owners and explain the necessity of clearing the right of way and dangerous trees for the good of the system.
5. In conjunction with MPUC, contact Newbury Neck customers (perhaps circular with power bills) to inform them of the benefits of clearing dangerous trees on their property.

On September 28, 2000, BHE filed a Motion to Dismiss the Complaint and Close the Docket. The Complainants and OPA opposed the Motion to Dismiss claiming there were still outage problems. In March, our Staff requested additional information from

¹ Other intervenors in the case, Royce Perkins and Jill Goldthwait, have not been active participants.

BHE concerning the findings of the POWER Engineers' Report and BHE's response to the Report.

On May 11, 2001, the Commission held a Technical Conference in Surry to allow the Staff and all interested persons to ask follow-up questions to the data responses. Representatives of BHE, William Black of the OPA, R. Boyd Thompson, Joseph Gramaldi and Donna Robinson participated. At the close of the Conference, BHE, OPA and the Complainants stated they had reached agreement on the terms of a stipulation. On June 6, 2001, the OPA submitted a Settlement Agreement that OPA and BHE signed. The other parties have not signed the Settlement Agreement.

III. DISCUSSION AND DECISION

The Settlement Agreement seeks to settle all issues connected with this proceeding and respond to the recommendations of POWER Engineers. The first two provisions of the Settlement Agreement address tree trimming. All lines in the area were trimmed in 1997. BHE is on a 7-year trimming cycle. In the Settlement Agreement, BHE agrees to advance that schedule and complete another clearance by the end of 2002. To address the problem of private line owners' failing to trim, Provision 2 of the Settlement Agreement requires BHE to visit, before September 30, 2001, 49 Newbury Neck customers individually to explain the benefits of clearing their private lines either by BHE (for a fee) or a private contractor.

In Provision 3 of the Settlement Agreement, BHE agrees to install the recloser switch described in the second recommendation of the POWER Engineers' Report. This will result in any outage being of a shorter duration. To address the Complainants' concerns that some outages are still occurring, in Provision 5, BHE agrees to continue reporting on the outages as well as on the status of the switch recloser installation and tree trimming.

The Settlement Agreement does not address the POWER Engineers' recommendation that BHE reschedule the rebuild of the Surry – Blue Hill portions of Line 10 to move it into a separate right-of-way. BHE recently rebuilt all six miles of Line 10 from Ellsworth to Brooksville. Its placement along the side of the road is similar to the placement of lines in all other parts of BHE's territory. The recloser switch will reduce the response time to any outage on the line. BHE has said that over time it will attempt to move the line, but currently it is not a priority.

The Settlement Agreement appears to adequately respond to the concerns of the original complaint. BHE has rebuilt Line 10, it will continue to work on tree trimming, it will install the recloser switch so that any outages are shorter in duration and it will continue to monitor the situation.

In considering whether to approve a stipulation or settlement agreement, we consider:

- 1) whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
- 2) whether the process that led to the stipulation was fair to all parties; and
- 3) whether the stipulated result is reasonable and is not contrary to legislative mandate.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345 (II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We are satisfied that the Settlement Agreement in this case meets all these criteria.

We believe the Public Advocate joining in the Settlement Agreement sufficiently represents ratepayer interests even though the Complainants have not signed the Settlement Agreement. The process has provided numerous opportunities for comment and for all interested persons to be heard. The original complaint was filed more than five years ago. Since that time, and in part due to the active participation of the Complainants, BHE has made various improvements in the Surry/Blue Hill area. Some outages continue to occur, typical of a rural, coastal area, with many private lines. BHE's commitment to continue extra efforts to accomplish tree trimming should help this situation. Under the Settlement Agreement, BHE will continue to collect and report data about outages. If the situation worsens or other problems arise, we will examine them. We do not see any further useful purpose in keeping this particular docket open. Therefore, we will approve the Settlement Agreement (attached to and incorporated in this Order) and close this docket.

Dated at Augusta, Maine, this 11th day of July, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

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| Power Outages and low Voltage for the |) | SETTLEMENT AGREEMENT |
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| and Beyond |) | |
| |) | |
| Docket No. 96-245 |) | |

INTRODUCTION

As part of a prior stipulation in this case, the electrical engineering firm, Power Engineers, Inc. was retained to evaluate the electric service in the Newbury Neck area of Surry, Maine. Power Engineers, Inc., issued a preliminary report, which was the subject of comments by the parties. Power Engineers, Inc., on August 31, 2000, filed a Final Report entitled, Newbury Neck Power Quality Study. Some parties filed additional comments regarding the Final Report. On September 26, 2000, Bangor Hydro-Electric Company ("Bangor Hydro") filed a Motion to Dismiss Complaint and Close Docket. Parties filed comments/oppositions to Bangor Hydro's Motion. On May 11, 2001, a technical conference was held in Surry, Maine for the purpose of addressing Bangor Hydro's Motion and the Power Engineers' Final Report. Members of the Maine Public Utilities Commission's Advisory Staff were present, as well as representatives of Bangor Hydro, the Public Advocate, the Complainants (Mr. Thompson and Mr. Grimaldi), and intervenor Donna Robinson. At the end of the technical conference, all of the parties entered into a settlement agreement of the case, which is designed to settle all issues connected with the above-captioned proceeding. That settlement agreement is memorialized in this written agreement.

TERMS OF SETTLEMENT AGREEMENT: This Settlement Agreement settles all issues connected with the above-captioned proceeding as follows:

1. **Tree Clearance.** Bangor Hydro will carry out another thorough tree clearance of the Surry circuits, and side-taps, including Newbury Neck, in 2002. Thereafter, Bangor Hydro will perform tree clearing on the Surry circuit, including Newbury Neck, on its regular cycle.
2. **Trimming of Private Lines.** Before the end of September, 2001, Bangor Hydro will send a representative to visit each of the 49 Newbury Neck customers recently sent letters (dated May 7, 2001) regarding trimming

private lines, to follow up on the letter regarding the necessity and benefits of clearing private lines (excepting those people who have already agreed to have their private lines cleared). Where Bangor Hydro identifies tree contact that would justify trim now or in the near future, Bangor Hydro will advise the customer and suggest that he or she contact a contractor or BHE to do the work.

3. **Automation of Switch.** Bangor Hydro will install automation and remote control to the existing existing manual switch on Line 10 at Surry, as described in response to Examiner's Data Request 2-4 (Response dated April 25, 2001). Bangor Hydro will commence ordering and engineering this addition immediately upon the closing of the Docket, and move forthwith to install it. Bangor Hydro will make a good faith effort to complete the automation of the switch within a six-month period, unless the Company has difficulty obtaining the necessary equipment.
4. This case will be closed without any findings by the Maine Commission with regard to the allegations.
5. **Reporting Requirements.** The reporting requirements for Bangor Hydro in the Order closing the Docket will be:
 - a. Surry outage history (including weather-related outages) and recloser operations, on a quarterly basis, unless the MPUC requests a longer reporting period.
 - b. Status of installation of switch on a quarterly basis until installed, as described in Item # 3 above.
 - c. Confirmation of contacts with Newbury Neck customers re: trimming private lines, including how many indicated agreement to have trimmed, and how many refused.

ADDITIONAL STANDARD PROVISIONS:

1. This Settlement Agreement constitutes the entire agreement of the parties.
2. The making of this Settlement Agreement shall not constitute precedent as to any matter of law or fact, nor shall it foreclose any party hereto from making any contention or exercising any right, including rights of appeal, in any other Commission proceeding, or investigation or any other trial or action.

3. The Parties intend that this Settlement Agreement be considered by the Commission for adoption as an integrated solution to the issues in this proceeding and shall be null and void and does not bind the Parties in this proceeding if the Commission does not accept it without material modification.
4. **Record.** When the Commission considers this Settlement Agreement for approval, the record in this case shall consist of the original complaint, Bangor Hydro's response, all responses to data requests, Bangor Hydro's submissions of reports to the Commission, all customer reports and logs submitted to the Commission, the transcript of any conferences and public witness hearings in this docket, the E/PRO reports, and the Power Engineers, Inc. report.

IN WITNESS WHEREOF, the Parties to this Settlement Agreement have signed this Agreement, or caused this settlement Agreement to be signed by their respective attorneys or representatives.

Dated: _____

Alan G. Stone, Esq.
Attorney for Bangor Hydro-Electric Co.

Dated: _____

William C. Black
General Counsel
Office of the Public Advocate

Dated: _____

R. Boyd Thompson
Lead Complainant and
Representative of Complainants

Dated: _____

Joseph Grimaldi
Complainant

Dated: _____

Donna Robinson
Intervenor

Dated: _____

Royce Perkins²
Intervenor

Dated: _____

Jill Goldthwait³
Intervenor

² Representative Royce Perkins, intervenor, did not actively participate in these proceedings.

³ Senator Jill Goldthwait, intervenor, did not actively participate in these proceedings.